

The Home Rule Municipal Retailers' Occupation Tax and Home Rule Municipal Service Occupation Tax must be imposed in the same manner and on the same items as the Retailers' Occupation Tax and Service Occupation Tax. See 65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5. (This is a GIL.)

January 10, 2006

Dear Xxxxx:

This letter is in response to your letter received July 25, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

You email [sic] ask questions on the web sight [sic] does not work.

Can a home rule city impose a home rule tax on specific items and not others? For example tax, prepared (hot pizza, hot hotdogs etc.), fast food and restaurants, gifts, antiques, souvenirs, rentals, all lodging and camping, fudge, books & collectables; but not furniture, appliances, beer or liquor, or other general merchandise.

We live in a community of 1200 but have a large amount of tourist which cost our infrastructure. I got Nauvoo to go to home rule but now I want them to aim the tax at the tourist. My reading of the law seems to be correct that we can be specific and perhaps charge 3% on the above items.

What can you tell me so I can present a plan to the City Council?

Can you email me back the answer please?

DEPARTMENT'S RESPONSE:

The locally-imposed Home Rule Municipal Retailers' Occupation Tax (65 ILCS 5/8-11-1) and Home Rule Municipal Service Occupation Tax (65 ILCS 5/8-11-5), commonly referred to as the "home rule sales tax", must be imposed in the same manner and on the same items as the State-imposed Retailers' Occupation Tax (35 ILCS 120/1 et seq.) and Service Occupation Tax (35 ILCS 115/1 et seq.), commonly referred to as the "State sales tax". This is as a result of the language in each of the local tax statutes which requires that these taxes be administered in the same manner as the corresponding State sales tax statutes.

In addition to mirroring any exemptions from tax required by the State sales tax statutes, the home rule sales tax may not be imposed on an item of tangible personal property titled or registered with an agency of this State's government or on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

The home rule sales tax statutes do not cap the rate at which these taxes may be imposed. They do however require that the rate of tax be in 0.25% increments, for example, at a 1% or 1.25% rate, but not at a 1.2% rate.

Please See Department of Revenue Publication FY 2005-14 on our website for more information on this matter.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk